TOWN OF CHESTERFIELD, NH PLANNING BOARD Meeting Minutes Monday, January 7, 2013

Present: Chair Brad Chesley, James Corliss, Roland Vollbehr, John Koopmann, Susan Lawson-Kelleher and Davis Peach

Peach and Koopmann were sworn in by the Town Clerk.

Call to Order

Chesley called the meeting to order at 7:17 pm. Chesley introduced Davis Peach as a new Planning Board alternate member.

Review of the Minutes

December 17, 2012

Corliss moved to accept the December 17, 2012 meeting minutes as amended. Koopmann seconded the motion, which carried unanimously.

Appointments

• Alex & Lauretta Kwader – This is a continuation of the hearing to discuss the conditions in the conditional approval for a Minor Subdivision for property located off Pinnacle Springs Extension (Map 4, Lot B-1) consisting of approximately 150 acres in the Rural/Agricultural Zone. The hearing will include a review of the town engineer's and fire chief's reports on Pinnacle Springs Extension. It may or may not be followed by final approval of the application.

Chesley recused himself as he is an abutter and Corliss assumed the chair.

Corliss reviewed the conditional approval of November 12, 2012. He advised he and Stenersen had walked the road. Stevensen's report is in the binder. Corliss advised that the road suffers from encroachment from small saplings and brush. He doesn't see why it would have to be built up particularly because it would only be serving 3 houses and would remain a private road.

It was noted that the Fire Chief's report indicated the same thing; clear the brush and make sure people can find it. In the conditional approval the Planning Board must make a determination of what the improvements need to be based on the Town Engineer's and the Fire Chief's reports. The road would remain private and is effectively a shared driveway. Vollbehr stated he believed that the recommendations of Higher Design should be followed. Peach mentioned that waivers had been required to build on private roads. He was advised this is already covered.

Jim Phippard, representing Kwader, advised they have no objection to putting up a street sign and cutting back the brush and saplings. He asks that the Board find them in

compliance as a condition of the subdivision. They are agreeable to the engineer's recommendations.

Corliss read the conditions.

- 1. Waiver of liability for the Town
- 2. Follow recommendations of the engineer.

Atty Kelly Dowd stated the first 2 conditions should be prior to getting the building permit but not prior to subdivision approval.

The 3rd condition pertained to the property rights of the applicant to access the proposed lot. If Kwader is found not to have such rights, the approval would be withdrawn. This condition had been added to cover the Town against liability issues. This ROW issue has gone to court.

Corliss stated it is up to the abutters to maintain the road and is not a Planning Board issue. Lawson-Kelleher stated that it was the intent of the Planning Board to note that the road had been maintained by a current resident and if improvement were to be made it should be the responsibility of Kwader as the new developer. It was noted that Kwader had been willing to discuss shared maintenance with abutters. Chesley, abutter, stated there are 5 lots connecting onto Pinnacle Springs Extension. He asked if the other lots also needed waivers or would it just be Kwader. It was noted that you can't ask for a waiver after the fact; however, some of the lots may already have waivers as they were built on a private road.

Dave Smith stated he has done some work in the area and asked if it was a public way. If it was public he could drive up and turn around at the cul-de-sac instead of backing down the road. Corliss stated he believes it to be a public road dedicated to public servitude in the 1980's. Chesley stated he doesn't believe it is a public road. Dowd advised there is a deeded ROW to abutting properties. In the 1987 subdivision approval the intent was to bring the road up to specs and become a public road; however, that was not done.

Motions

Lawson-Kelleher moves to close the public portion. Peach seconded the motion; which carried unanimously.

Lawson-Kelleher moved to accept the conditions for the building permit; it seems reasonable to have clearing done prior to the building permit and not as a condition to subdivision. The conditions of #2: left ditch, #3: clearing brush and saplings and #4: install street signs must be met prior to the issuance of the building permit.

Koopmann seconded the motion, which carried unanimously.

Lawson-Kelleher moves that the other conditions for the conditional approval have been met with respect to the subdivision approval.

Vollbehr seconded the motion; which carried unanimously. The Mylar will be signed at the next meeting.

• **Cersosimo Industries** - This is a continuation of a public hearing on an application for a Minor Site Plan of property located at River Road (Map 1, Lot B2) consisting of approximately

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17.75 acres in the Residential zone and 17 acres in the R/A zone. This is a public meeting and it may end in an approval or denial of the application.

Andrew Geffert was present representing Cersosimo. He submitted amended plans. The Board was to have a list of items that needed to be addressed but it had not been done. Geffert read the list he had.

- 1. 7 days of standing water was noted on page 2 of the plans.
- 2. Sediment pond cleaning was noted on page 2.
- 3. Traffic plan was on sheet 1.
- 4. Backhauling the Board agreed no note was required.
- 5. Emergency hours
- 6. Coyote Canyon buffer was noted on page 3.
- 7. Reclamation bond would be addressed by the Selectboard.

Geffert requested that the 200,000 sq ft restriction be removed and allow 27.6 acres of open area in both the Chesterfield and Westmoreland sides. Koopmann stated that he believed McKeon had concerns with opening it up to 27 acres and doing so would hinder the Planning Board's ability to have sufficient controls to protect the environment. Vollbehr asked what happens with the water runoff increasing the area several fold. Geffert stated that the AOT permit allows for the maximum are of 27.6 acres to be open. We have to make sure there is enough vegetation in Westmoreland and retention ponds to handle it. Corliss stated he doesn't see any harm to the town permitted the 27.6 acres open. It does have to be stabilized. It is already cleared and the buffer is being maintained. Lawson-Kelleher if it is not in use for 24 months it would be reclaimed. Westmoreland's permit allows for the 27.6 acres for the pit. Cersosimo can only haul for residents if using Coyote Canyon Rd.

Koopmann stated he still has reservations with regard to erosion control and mitigation efforts are too dispersed when the site gets that large. The 200,000 sq ft may be restrictive and perhaps we should look at expansion of that but not the 27.6 acres. He doesn't have an educated # as a recommendation.

Geffert stated they could not open up 27 acres in Chesterfield because they don't have that amount of area in Chesterfield. If that was not allowed, they ask that 20 acres; which is the maximum in Chesterfield. Koopmann stated it would be giving carte blanch for excavation without erosion control. That was the point of 200,000 sq ft limit. We have issues with erosion control. Chesley stated there are no erosion control issues.

Geffert stated that the 200,000 sq ft came about when Stub Thomas opened the pit. It was not based on anything scientific. Peach advised that the storm water pond was revised after Cersosimo bought the property. He hasn't heard of any complaints regarding erosion on the site. He asked how long it would take to deplete the gravel in the area. Geffert stated by 2045. The life of the site was discussed. Peach stated if the request to open more area for efficiency, he doesn't see the need.

Jeff Scott, Town resident, suggested giving them half. If it works then give them the rest. Lawson-Kelleher stated if the area isn't used in 12 months put grass seed down. Geffert stated they would be willing to have incremental reclamation. Corliss read RSA 155-E-5. Lawson-Kelleher stated she doesn't see a problem with requiring covering it if it is not used in 12 months. Geffert stated they have ponds in place by the AOT permit.

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Chesley stated he believes it would be good to be consistent with Westmoreland. Koopmann stated when there is restriction on open space; you have control over erosion of the disturbed area. Chesley stated that we are making presumptions there would be an issue with erosion. Corliss stated he can't see requiring more restrictions on the time frame for reclaiming unused areas than what the State requires. The issues as far as he can see have been dealt with. Lawson-Kelleher stated that all drainage for both sites go to Chesterfield with the 27.6 acres open; the site is substantially improved and they have done a lot with regard to retention ponds and spill ways. Peach stated there has been a lot or area grassed over; his concern is protecting the river.

Chesley took a poll of the Board regarding who would be willing to change 200,000 sq ft in Chesterfield to 27.6 acres in the entire pit. Koopmann asked that they wait to get McKeon's input. Lawson-Kelleher stated she would be concerned pushing it off another meeting. Chesley stated he didn't know if McKeon's concerns would sway the Planning Board.

Pol1:

Peach - Yes

Corliss - Yes

Lawson-Kelleher – suggested the Board go with some intermediate #. If they are at 4 acres in Chesterfield now and can go to 20 acres in Chesterfield; maybe do 10 acres and see what happens. She stated no to the 27.6 acres.

Vollbehr – He wouldn't go above 600,000 sq ft. He passed on the poll.

Koopmann – No, but would consider an intermediate amount.

Chesley - Yes

Chesley asked if the Board would vote no on the site plan for this issue. Koopmann stated he would vote no; giving 10 acres would allow for oversight of the pit and would still give reasonable area. Corliss asked why; if we could point to a particular issue, he would be willing to listen. Chesley stated that Westmoreland is okay with 27.6. Koopmann stated there have been issues in the past. Lawson-Kelleher stated there has been improvement but Westmoreland had a plan showing erosion control all in Chesterfield but they didn't have a drainage plan until we asked for it. She stated the types of soil; sand, sandy loam, lends itself to being highly erodible and moves very fast. The erosion control measures should work but she is cautious because of the material. She suggests 10 acres in Chesterfield. If this was the only sticking points and the majority of the Board agreed she would vote yes.

The consensus of the Board is they would consider 10 acres open area where they are currently using 4. Chesley asked if the applicant would be willing to accept this. Geffert will bring the 10 acres limit back to his supervisors.

Chesley advised we need an extension on time from the applicant or the board could vote on it tonight. Geffert wrote a note of extension to the January 28^{th} meeting.

Lawson-Kelleher moves to continue the public hearing to January 28th at 7:30 pm at the Town Offices. Vollbehr seconded the motion, which carried unanimously.

Items for Discussion

Attorney Rattigan had submitted his response to Panciocco's November 15, 2012 letter.
 Chesley advised that this is attorney/client privilege. The Board decided to read the document silently and then vote on whether to make it public.

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Chesley polled the Board as to whether to make Rattigan's letter of January 7, 2013 public. Yes: Chesley, Corliss, Lawson-Kelleher, Vollbehr and John Koopmann. Peach abstained. A copy of the letter was given to Dave Bergeron, representative for Donahue. Bergeron advised they would have a response at the January 28th meeting. Chesley reviewed the letter in public session. He stated there are some things the Selectboard will need to approve. Bergeron stated they would be fine with #5, Phasing – The attorney, "...suggested that the Board have a brief Phasing agreement that sets forth how the plan is to be phased, and the right of the applicant to construct the development by phase, that a bond will be established by the Board prior to each phase, and the Declarant has the right to proceed with one or more phases at a time, providing the corresponding performance bond amount has been posted".

#6 Vesting – The attorney suggests vesting after Phase II is completed. Bergeron stated they had hoped that vesting would begin in the Phase I of the project to protect them from any zoning changes that may be instituted after the start of Phase I. It was noted that the project would likely be grandfathered. Bergeron will speak with Donahue.

Other Business

- Dave Smith asked the Board if there were any zoning changes up for March Town Meeting. Chesley stated there were none for 2013 as far as the Planning Board is concerned. Chesley advised the Board was requested to reconsider In-Law apartments but it will not be done for 2013.
- Jeff Scott asked how to go about getting changes to the Zoning Ordinances. Chesley advised he could bring it to the Planning Board to address or he could submit a petition signed by 25 registered voters. It was too late for this year. The last day to accept petitions for zoning changes was December 12th.
- Jeff Scott asked the Board the next time a project like Donahue's comes in can they require the use of the of the existing wood road closer to the bank. He was very concerned with the location of the improved entrance to the project. Chesley advised that the improved access to the lot was an existing access point and the State had requirements they wanted met as this is a State road.

Adjournment

Corliss moved to adjourn at 9:50 pm. unanimously.	Vollbehr seconded	the motion,	which carrie	гd
Respectfully Submitted by:				

Brad Chesley, Chairman	Date	
Approved by:		
Annaryad by		
Secretary		
Coorotomi		
Carol Ross		